

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 12 of 1998

Appellant :- Union of India

Respondent :- Arun Kumar And Others

Counsel for Appellant :- No,K.C. Sinha,Pramod Kumar Singh,Rakesh Sinha,Ram Pal (A.C.S.C.)

Counsel for Respondent :- Pramod Kumar Jain (Senior Adv.),Pawan Kumar Tripathi

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. The present appeal has been filed by the appellant against the award dated 17.10.1997 passed by Motor Accident Claims Tribunal/Xth Additional District Judge, Meerut in M.A.C.P. No.341 of 1990.
3. Challenging the award, learned counsel for the appellant has contended that the finding of the Tribunal that the alleged accident had taken place due to rash and negligent driving of driver of army truck bearing registration no.77E/2718 was perverse, inasmuch as the evidence on record discloses that there was no negligence of the appellant's vehicle and the accident was the result of rash and negligent driving of driver of other truck. It is further contended that the compensation awarded by the Tribunal is excessive inasmuch as no evidence was led by the respondents regarding income of the claimant/respondent. The respondents did not file any disability certificate to prove the disability suffered by the

claimant/respondent.

4. Per contra, learned counsel for the respondents would contend that the Tribunal after appreciating facts and evidence on record and testimony of the claimant/respondent who was eye witness of the accident, concluded that the accident was the result of sole negligence of driver of army truck. It is submitted that in the instant case, one hand of the claimant/respondent has been amputated, and in such view of the fact, the compensation awarded by the Tribunal is just and appropriate and does not call for any interference by this Court.

5. Be that as it may, the Tribunal in recording the finding that the accident was the result of sole negligence of driver of army truck considered the testimony of claimant/respondent and also considered the other documentary evidence on record, which established that the accident was the result of sole negligence of driver of army truck. The finding returned by the Tribunal on the issue of negligence is a finding of fact based upon proper appreciation of evidence on record and is not liable to be interfered with by this Court in appeal.

6. So far as the quantification of compensation is concerned, in the instant case, one hand of the claimant/ respondent has been amputated. In such view of the fact, nature of work which the claimant/respondent was doing cannot be performed by him, and thus, the claimant/respondent has suffered almost 100% loss of earning capacity. In such view of the fact, this Court finds that the compensation awarded by

the Tribunal is just and appropriate and does not warrant any interference by this Court.

7. Thus, for the reasons given above, the appeal lacks merit. It is liable to be dismissed and is accordingly dismissed with no order as to costs.

Order Date :- 6.11.2023
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